IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO.1456 OF 2005

Maharashtra State Road
Transport Corporation ..Petitioner

Vs.

Maharashtra State Transport
Kamgar Sanghatana ..Respondent

....
Mr.G.S.Hegde for Petitioner
....

CORAM : B.H.MARLAPALLE,J.
DATE : APRIL 21,2005

P.C.:

1. Heard Mr.Hegde, the learned counsel for the Petitioner-corporation.

2. This Petition filed under Article 227 of the Constitution of India assails the interlocutory order below Exh.U-2 in Complaint (ULP) No. 683 of 2004 filed by the Respondent which is a recognised Union, under the MRTU and PULP Act, 1971. By the impugned order dated 13.12.2004, the learned Member of the Industrial court has directed the status-quo to remain in force till the complaint is decided. He has further directed the Corporation to discuss and negotiate with the Complainant-Union and submit a report of such discussion within two months. It was also clarified that on submission of the said report,

the order impugned, could be reviewed or modified.

3. Mr.Hegde submitted that it was not a statutory requirement/obligation of the Respondent-corporation to pay the overtime allowances computing the house rent allowance as well as local compensatory allowance as part of the salary and therefore, based on audit objections circular no.23 dated 3.11.2004 was issued by the Corporation clarifying that the overtime wages shall be payable only on basic wages and dearness allowance and the other two components being house rent allowance and local compensatory allowance, shall not be taken into consideration for computing the overtime wages. The Respondent-Union has challenged the said Circular in Complaint (ULP) No.683 of 2004.

4. The learned Member of the Industrial Court noted that computation of overtime allowance by treating the four components as wages has remained in force from the bilateral settlements signed between the Corporation, the complainant-union and the MSRTC Workers Federation on 1.8.1981 (clause 4 of part 3), consequent to the said settlement, the Corporation had issued a Circular dated 27.8.1981 and bearing No. 35 of 1981 informing that the overtime was to be calculated on the basic wages + DA + HRA + CLA. Even in the last settlement dated 16.10.1999, the said

clause regarding computation of overtime wages was retained in overtime as was set out in the settlement dated 1.8.1981. Section 20 of the MRTU and PULP Act 1971 has bestowed certain rights in favour of the recognised union and keeping this statutory provision in mind, the Industrial Court is required the Corporation to carry out negotiations with the recognized union. This order is intended to explore an early settlement on the stand off between the parties. A prevailing practice over a period of two decades, could not have been, prima facie, unilaterally changed by the impugned circulars and ultimately the rights and contentions of the parties could be decided in the pending complaint. For the time being, the order of status-quo cannot be termed as patently erroneous or perverse or without jurisdiction and therefore, it does not call for any interference in this petition.

5. The petition is therefore, rejected summarily and the trial of the Complaint (ULP) No. 683 of 2004 is hereby expedited. The complaint shall be decided on its own merits as expeditiously as possible and preferably by the end of October, 2005.

6. Writ to go forthwith to the Industrial Court.

[B.H.MARLAPALLE,J.]